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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,595

04/27/2006

Todd Charlton Sacktor

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7590

11/25/2009

SCULLY, SCOTT, MURPHY & PRESSER, P.C.

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EXAMINER

MACFARLANE, STACEY NEE

ART UNIT

PAPER NUMBER

1649

MAIL DATE

DELIVERY MODE

11/25/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/533,595

**Applicant(s)**

SACKTOR ET AL.

**Examiner**

STACEY MACFARLANE

**Art Unit**

1649

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 12, 14-16, 18-22 and 24-38 is/are pending in the application.
- 4a) Of the above claim(s) 1-9, 12, 14-16, 18-21 and 24-37 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22 is/are allowed.
- 6) ☒ Claim(s) 38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. Claim 22 has been amended as requested in the amendment filed on August 20, 2009. Following the amendment, claims 1-9, 12, 14-16, 18-22 and 24-38 are pending in the instant application.

Claims 1-9, 12, 14-16, 18-21 and 24-37 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper filed on 2/25/2008.

Claims 22 and 38 are under examination in the instant office action.

2. Applicant's arguments filed on August 20, 2009 have been fully considered but they are not deemed to be persuasive for the reasons set forth below.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. As currently amended to recite SEQ ID NO: 2, the rejection of Claim 22 is under 35 U.S.C. 112, first paragraph, written description requirement, is withdrawn.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 38 stands rejected under 35 U.S.C. 102(b) as being anticipated by Hrabetova et al., (1996) for reasons of record in the Office action mailed May 22, 2009.

7. On page 12 of Remarks filed August 20, 2009, Applicant traverses the rejection on the grounds that "the antibody recited in Claim 38 specifically binds to PKC $\alpha$ /I $\lambda$ , and does not cross react with PKM $\zeta$ . The antibody recited in claim 38 is specific to PKC $\alpha$ /I $\lambda$  because it is to a sequence found in I $\lambda$  but not  $\zeta$ , and therefore does not cross-react with PKM $\zeta$ ". While this has been reviewed in full it is not found persuasive for the following reasons.

8. Applicant is arguing features that are not present within the claim. The claim does not define the requisite specificity by stating that the antibody product "does not cross-react with PKM $\zeta$ ", nor is the antibody of the claim critically defined by "a sequence found in I $\lambda$  but not  $\zeta$ ".

9. The Hrabetova et al. prior art teaches "antisera are specific to isozyme type" and explicitly teaches immunoblotting with "antiserum to the catalytic domain of I $\lambda$ " which detected PKC $\alpha$ /I $\lambda$ . Therefore, the antibody product of the invention fails to distinguish over that of the prior art.

***Allowable Subject Matter***

10. Claim 22 is allowable over the prior art.
11. This application contains claims drawn to an invention nonelected with traverse in Paper filed on 2/25/2008. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.
12. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STACEY MACFARLANE whose telephone number is (571)270-3057. The examiner can normally be reached on M-W and F 5:30 to 2, TELEWORK-Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Stucker can be reached on (571) 272-0911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Stacey MacFarlane  
Examiner  
Art Unit 1649

/John D. Ulm/  
Primary Examiner, Art Unit 1649